IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1052 OF 2006
IN
SUIT NO.1299 OF 2002

Bhavarlal Nihalchand Jain & ors ..Plaintiffs

Versus

Smt.Kamibai P.Solanki ..Defendant

Mr.A.A.Joshi i/by L.J.Law for plaintiffs.

Mr.K.K.Jadhav for the defendant.

Coram : R.S.Mohite,J

Date : 16.10.2006.

PC

1. This is a Chamber summons for re-calling the order dated 6.6.2005 passed in Chamber summons no.1720 of 2004 in Suit no.1299 of 2002 and for the hearing of the said Chamber summons no.1720 of 2004 on merits. I have heard both sides. The suit is filed by the plaintiffs for recovery of possession on the footing that the defendant is a trespasser. The impugned order dated 6.6.2005 was challenged in an appeal and on 17.11.2005 Division Bench of this Court passed an order granting liberty to the original defendant to move the chamber Judge for re-calling the order dated 6.6.2005. It is noticed that thereafter the present Chamber summons has been taken out on August-2006. There appears to be no urgency on the part of the defendant. The

explanation given regarding medical treatment is not supported with any medical documents. Since the order dated 6.6.2005 was passed ex-parte and on the footing that all the allegations have remained uncontroverted, in the interest of justice, I am inclined to grant this Chamber summons in terms of prayer clause-(a) subject to the payment of cost of Rs.2000/- to the plaintiff within a period of 3 weeks from today. It is made clear that till Chamber summons 1720/2004 is decided, the Court Receiver who had taken back the possession, will maintain status-quo as of today. The defendant will be however, at liberty to take away her articles which are lying in the premises. Chamber summons no.1720/2004 will be placed on board for further hearing on 13.11.2006.

(R.S.Mohite,J)